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FOR THE NATIONAL REGISTER.

BANK OF THE UNITED STATES—No. V.

Banking, as it now exists among us, is a species of nefarious gambling. All speculations in bank stocks are of this nature; and none more so than that which is carried on in the stock of the Bank of the United States. What is gained by the purchaser is lost by the seller; and so, *vice versa*.

When we come to consider the amount paid on account of the difference of exchanges, it is obvious that it must be very considerable. Almost every day in the year large remittances are made north, east, west, and south, from one part of the United States to another. Some short time ago it was stated in the *National Intelligencer*,* apparently from an authentic source, and probably from information furnished by an officer or a director of the Branch Bank of the United States in the city of Washington, that it had, at that time, cost the parent bank three hundred thousand dollars, as expenses necessary to the equalization of the value of the paper of all the branches of the institution at the different points of the country where the establishment transacts business; and upon that ground chiefly has the justice of charging a premium upon the drafts of one branch, made payable at another, been advocated.

The Bank of the United States was chartered in 1816, and in that and the next year went into complete operation. It will be fair, perhaps, to say, that, at the time the abovementioned declaration was made in the *National Intelligencer*, the bank had been in full operation for two years. Taking, then, three hundred thousand dollars in two years, as a datum for estimating the amount of extra expenses, incurred by the transportation of specie to meet demands at every point, upon a capital of thirty-five millions of dollars, which is that of the Bank of the United States, and we have the sum of one hundred and fifty thousand dollars per annum, as a loss, to be borne either by the bank or the public; and, in the case of the Bank of the United States, the entire loss has been thrown, by a manœuvre of the bank itself, upon the people. And why should the people bear it?

* See, also, the *National Register* of the 30th of September last, page 183.

A bank is a monopoly of power given to a body of men to trade in money; and its capital is of a two-fold nature—real and fictitious. The capital of the Bank of the U. States is fixed at thirty-five millions; and, upon the credit which that gives, it may trade upon at least fifty millions of dollars. Thus, a considerable part of its profits arise from the mere faith put in the ability of the bank to pay in specie all the notes which it puts into circulation; which, however, is never the fact: but as the public believe it, or agree to believe it, or to trust to it without believing it, it amounts, as far as it respects the profits of the trade, to the same thing as if it were true. The whole secret of directing the affairs of a bank with safety is nothing more than the knowledge how far you may make the false part of the capital exceed that which is real; in other words, what amount of the notes of the bank you may keep in circulation, without danger of having all the specie drawn from its vaults, and none left to pay off those of its notes still unsatisfied. This knowledge can only be properly gained by experience; and when gained, leads to various tricks of dexterity; such as putting the notes of the bank into circulation at a distance, so that they may not suddenly return upon you; or by certain agreements with other banks to receive and pass the notes of your bank; or, by such a trick as that of the Bank of the United States, which, operating through a number of branches under its absolute control, sends its notes out in every direction; and many of these do not return for payment for a long time.

By means of this real and fictitious complex capital, therefore, the Banks, and especially the Bank of the United States, make money for themselves very fast. Besides which, they all have other contrivances for producing profit of a very lucrative kind: for when they lend you money, they retain the interest; and this interest accumulates, and forms additional capital, which is lent again; and thus the Banks work by compound interest, and gain upon the public every way: And further, the gain from notes that are accidentally burnt, or torn, or otherwise destroyed or lost, must be a smart item for the credit side of the Banks' books: to say nothing of the profits realized by the authority which the Banks exercise of declaring any of the notes, presented for payment or attempted to be passed as theirs, counterfeited or forged. The law is, that the forged or counterfeited paper perishes in the hands of the last holder: of course, the holder loses the amount: and if even the note were a ge-

nuine one, there is no remedy. The officers of the Bank are witnesses in most of these cases; and their *opinion*, which must always lean to the Bank, establishes the fact;† the little rogue gets punished; but the Banks, which are the greatest knaves of all, escape with impunity, and with much applause for their sagacity in detecting counterfeiters and forgers.

By these methods—that is, by false capital, by the retention of interest at the moment of making loans, by notes lost in the transaction of business, and by demoralizing, in some cases, their own paper, together with a certain dexterity of management—Banks in general are in the custom of receiving enormous profits: None more so than the Bank of the United States. Counting its ordinary dividends at ten per centum, the amount of its reserved contingent fund, from which occasional extra dividends are made, the real property which it possesses, the property upon which it holds liens by way of security, and it cannot be doubted that the actual income of the Bank of the United States, for each of the twenty years for which it has been chartered, will be *thirty* per cent. upon the amount of its capital—a monstrous sum to be levied annually upon the industry of the people.

What reason can there be in this Bank's throwing an expense of one hundred and fifty thousand dollars a year additional upon the community, and which, in truth, is a positive gain to the institution? why should it not be satisfied with the profits which it draws from so many other sources?

If it should be contended that government *sold* the right of monopolizing the money trade of the country during a space of twenty years for a *bonus*, and that the payment of the amount of that bonus is all the people or government have a right to demand, I answer that the conditions upon which the charter of monopoly was granted, were two: 1. the *bonus*; which the Bank *must* pay: and, 2. the *regulation of the currency*; which the Bank has *shamefully evaded*. The first condition was for the convenience of the operations of the government: the second was intended for the convenience of the people at large. The reason why the government will not be trifled with is, because it is an organized body, competent to act at once by legal measures upon the Bank and stop all its operations. The people, on the other

* By this expression, it is not meant to insinuate that the officers of the Banks would *knowingly* give a wrong opinion in such a case. But it is almost impossible, that, in the thousands of notes which continually issue from these establishments, the officers can always be sure of the reality of a signature. The writer of this article recollects to have heard a case stated, as having been tried in court, wherein the cashier of a Bank, being a very cautious and conscientious man, refused to swear to the identity of his own signature. The fact depends upon *similitude*, and that is the most deceptive of all things.

hand, are every body and nobody. To act with effect, there must be discussions, and controversies of the intellect; and after all, perhaps, their wishes may be defeated by the machinations of the Bank; by its allowing its favors to some and refusing them to others; by the hirelings which it may, by the influence of money, enlist in its cause; and by the thousand artifices which those who have the control of large pecuniary establishments so well know how to employ with the needy, the feeble, and the profligate.

Thus far we have spoken chiefly of the loss to the people arising from the operations of the Bank of the United States only. The capital of that institution is, in all probability, not more than one-fifth of the entire banking capital, real and fictitious, actually afloat in the United States. We have seen that the loss thrown upon the people by the late regulations of the former, is one hundred and fifty thousand dollars per annum. Estimating the whole loss, from all the Banks in the Union, according to the same rate, it will amount to upwards of seven hundred thousand dollars yearly: And when we add to this the fines raised from the community by the brokers, on account of bad money, what must we think of the situation of the currency of the country, and how is it possible for the government to stand still without interfering to correct so abominable an evil?

DEFENCE OF GENERAL JACKSON.

To the Editors of the Nashville Whig.

So much has been said and written already in relation to the occupation of Pensacola by the troops of the United States, lately under the command of general Jackson, that any new light upon the subject is, at this hour, scarcely to be expected. Considering what has passed in the councils of the nation touching our foreign relations; that a negotiation is pending between the United States and Spain, in the course of which the Floridas are likely to be brought under consideration; and recollecting the course previously taken by the executive in relation to Amelia Island, an appendage of Florida, and belonging to Spain, and that too with the approbation of congress: adverting to these facts, I say, it seems difficult to account for the unusual interest, apparent feelings, which are manifested by some editors of newspapers in relation to this subject.

Most of these editors assume it as a fit subject to little disputation, that in this affair the President of the United States, or general Jackson, has acted in a manner incompatible with the highly responsible duties imposed by the office which they respectively hold in our government. Taking the statement in the National Intelligencer of July 27th to be correct, and which seems to be considered as a semi-official expose of the case, it manifestly appears that the foregoing supposition is wholly untenable; and that in its adoption there has existed some defect of investigation, or some design in the concealment of facts which alone

can furnish the basis of any reasonable conclusion in this affair. It is, indeed, curious to remark by what varied and dissimilar reasoning different individuals have forcibly arrived at the same conclusion. The president has done much too little, or general Jackson has done a great deal too much, in the conduct of the Seminole war!—Though differing in every thing else, in this conclusion most appear to agree; and, lawyer-like, having made up an issue between general Jackson and the president, one or the other must be greatly in the wrong! The president has failed to give the orders to the general necessary for the protection of the country, or the general has violated his duty as an officer of the army, in exceeding such orders as he actually did receive from the executive.

Let us examine the verity of these inductions, so confidently announced by the list of facts as they have appeared, and see what foundation is afforded to support the seemingly fashionable conclusions which have been drawn from them by some editors of newspapers in different parts of the union.

In relation to the president's instructions to general Jackson, it should be recollected that the four orders alluded to in the *Intelligencer* were, in all probable conjecture, directed to general Gaines, who had the command of our troops on the Georgia frontier before general Jackson was ordered to repair to that quarter. In the latter part of December major Bankhead, by the command of government, took possession of Amelia Island, to which place general Gaines, commanding in that quarter, is understood to have been ordered to proceed. Early in the succeeding year of 1817 the war commenced with the Seminole Indians, and the repetition of indiscriminate massacre and pillage, committed upon the unprotected and unoffending frontier inhabitants, claimed and called forth the energies of the government to stay the tomahawk and scalping knife, already red with the blood of Americans, and which still threatened to be the source of additional calamity. The hostility of the Seminole Indians, which was considered in its commencement as the irregular and desultory incursions of a horde of murderers and freebooters, at length, however, assumed a more serious and perhaps unexpected aspect. The president at the least considered it of a character so important as to order general Jackson, who was in the military command of one half of the nation, to proceed from his head quarters at Nashville, and personally to direct the movements of the army.

This order to general Jackson must doubtless have been accompanied by instructions from the executive, to employ all lawful means to put an effectual termination to the Seminole war; a war, which in its commencement was marked by great cruelty and outrage, and which, in its progress, was daily acquiring a much more formidable and distressing character. Under these circumstances, we repeat, it was, that the president thought it necessary to engage in the war much additional force, and to order general Jackson in person to take command of the troops. In such a state of things, it cannot reasonably be supposed, but that the character of general Jackson's orders from the executive, was marked by a latitude and decision, which the consummation of its object necessarily demanded. It is hence we conclude, and we deem with an irresistible presumption for its support,

that general Jackson must have been invested in the outset of the campaign, with every authority, which might be lawfully employed, for the speedy termination of this embarrassing and savage warfare.

It is stated, that "no alternatives were left to the United States, but to have our frontiers exposed to the mercy of savage war or carry the war into Florida; and thus to do for Spain, what she confessed herself unable to do for herself, by terminating, by force, the hostility of the savages." A fourth order was issued by the government, to this effect, and directing "that if the Indians should take refuge under a Spanish fort, not to attack them in that situation, but to report the case to the department of war."

It must at all times be kept in mind, that most of the savages, with whom the United States were at this time at war, had their residence within the territorial limits of Florida; that we were in peace and amity with the Spanish government; and that there existed a treaty between the United States and Spain, in which it is expressly stipulated by the latter power, that they will "restrain, by force, all hostilities on the part of the Indian nations, living within their boundary." Such being the relations existing at the time, between the U. States and the Spanish government, and negotiations pending between the two nations, forbid the anticipation, that the subjects of the Spanish king inhabiting the Floridas would assume an attitude in the least hostile to the United States. For it is a fair and correct presumption, that nations, as well as individuals, will act correctly and faithfully in the observance of their engagements, so far as they are able; and hence, though the president knew that the Indians living within the limits of Florida, robbed and murdered our frontier inhabitants, he could not have anticipated that it had been done by the advice, assistance, instigation, or connivance of Spanish subjects inhabiting these provinces. The laws of humanity and the relationships of amity existing between the two nations, not only forbid such a course on the part of the citizens of Florida, but they were engaged by solemn treaty with the United States, to restrain the Indians living within their territories from the commission of any violations upon the inhabitants of the American states, in their vicinage.

In this supposition then, resulting from the relationships between the two nations, that the subjects of Spain were at the least neutral, if not friendly in relation to the United States, this order, to respect the Spanish forts, in case the savages should take refuge *under* them, not *in* them, was issued to the commanding general. To have received the hostile savages in their forts, and hence to have protected them against their enemies, would have been an act of war on the part of Spain or her officers, which could not, by the president, have been foreseen. This order, therefore, to the general, to respect the Spanish forts, was founded, of course, on the basis, that the Spanish subjects and authorities in Florida were pursuing a course of neutrality, at the least, in the progress of the war. If that had not been the case, but the Spanish province had been aiding and assisting the hostile Indians, in the conduct of the war, the order restrictive of the sound discretion of the general, could not have existed, but he had been left at liberty to select all lawful means as dictated by passing incidents, for the purpose of effecting the express object of the campaign; viz:

the effectual termination of the Seminole war. The necessary object of all war, rightfully begun, is to put an end to it; or in other words to procure peace, and that is necessarily implied, if not expressed, in the orders of the executive; which confers by necessary implication, upon the commanding general, all powers compatible with the laws of nations and the usages of war. If the sovereign authority designs to limit the means to be employed by its officer, in the conduct of the war, it is proper, and it is rightfully expected, that those restrictions should be specially and clearly expressed. And hence, when not made, it would be unreasonable to suppose, that any restraint was intended, which in its effect upon the officer, would have defeated the main objects to be obtained by his agency.

What were the facts as they presented themselves to general Jackson, on the theatre of war? This next deserves our inquiry. General Jackson observed, no doubt, that his government had taken possession of Amelia Island, which belonged to the king of Spain, who seemed unable or unwilling to prevent its being the refuge of runaway slaves from the contiguous states, and affording an asylum to dissolute people, occupied in the daily violation of the revenue laws of the United States. He must have observed also, that general Gaines, after having taken possession of Amelia Island, had received orders from the government to march through Florida, and to chastise the hostile Seminole Indians; who, just before or soon after, captured a boat on the Appalachicola, laden with provisions for our troops, under the command of lieutenant Scott; putting to death him, and forty men, all of whom wore the military uniform of the United States.

It was these troops, under the guidance of general Gaines, together with such auxiliary military force as he might deem necessary and call forth for the purpose of putting an end to the Seminole war, that general Jackson was designated to command, by order of the executive. After organizing the Georgia militia at Hartford, he marched from thence on the 19th of February.—On the 22d, reached Fort Eady's, and soon in March arrived at Fort Scott, near the Florida line.—Within the limits of the United States general Jackson could find none of the hostile Indians. His orders authorized him to search for them in Florida; he did so, and found but a few at Tallasee. Still pursuing the object of his command, he found them embodied at Mickasuky, where he defeated them and took some prisoners, from whom he learnt that a large body of his enemies were protected and provisioned at St. Marks, a Spanish garrison. From this place, in prosecution of the object of the war, he determined to dislodge them. Before taking this step, however, he wrote to the Spanish governor at Pensacola, requesting permission to navigate the Spanish waters in the conduct of the war against the Seminoles. This request was refused; and the denial was couched in terms so harsh and acrimonious, as when taken in connexion with the information obtained from the prisoners, furnished the evidences of a well grounded belief, that the Indians were instigated to war and received assistance from the Spanish authorities in Florida. Under this conviction he marched to St. Marks, which he reached early in April. On his march to the place, he ascertained clearly, that, at this post, the Indians were in the habit of receiving supplies of provisions and munitions of

war, and that they were encouraged by the Spaniards there to plunder the frontier inhabitants of their cattle, which they exposed for sale to the inhabitants of St. Marks; and that, in consequence, the inhabitants, at this post, had purchased cattle of the Indians, with a full knowledge of their having been stolen from the frontier inhabitants of the United States.

It was during the continuance of those habits of intimacy between the Indians and Spanish authorities, while the former were holding councils in their forts and receiving from them the munitions of war, that general Jackson took possession of St. Marks, and wrote to the governor of Pensacola expressive of the motives which had induced him to do so—stating that his intentions were entirely pacific, or precautionary, and without any disposition to hold possession of the place any longer than might be absolutely necessary to the speedy termination of the war; all which he referred to his government.

Whilst at St. Marks, general Jackson received information, on the 15th of April, that the governor of Pensacola had furnished provisions to five hundred warriors or hostile Indians; and that two different parties of them had, with the knowledge of the governor, been supplied and furnished for war, had proceeded from Pensacola to the frontier of Georgia, for the purpose of killing and plundering its inhabitants. The general, as yet, had been able to find but few of the enemy, and those were nourished, assisted, and protected by the Spanish authorities, constituting but a small portion of those whose inroads and outrages on the frontiers, so frequently repeated, had produced the necessity of the campaign. Was he required, under these circumstances, to return home, without doing any thing in the least effectual in putting a period to the murderous and predatory incursions of the savages? This was an object all-important to the government; and to effect which it had been deemed necessary to put in requisition the very distinguished energy and talents of Jackson. He had done little towards chastising these savages, and still less which was calculated to put an end to the war, which constituted the great object of the expedition, and which must have been principally insisted on by the spirit of the president's order to the general. Under these circumstances, I say, was it required of general Jackson to march back to their homes, his brave and patriotic followers, who had suffered considerable hardships in a march of eight hundred miles, with half provision, and often wading to their chins in swamps and rivers? I repeat it, under such circumstances, could it have been expected of general Jackson, to turn back his troops; and that too, without having done any thing in the least calculated to put an end to the war, which was the sole object of his long and harassing march? General Jackson knew, when at St. Marks, that the principal chief and warrior of the Seminoles was then at Pensacola, with a large number of his followers, waiting only the retrogression of our troops to march from that post, to renew the scene of blood and robbery which had been so recently checked on our borders by the approach of his army. Was he then required to retrace his steps, and take post within our limits, and then patiently wait until savage chivalry should give him battle in his trenches—or, proceed to Pensacola, where the Spanish subjects and authorities aided and protected the Indians—rout them from thence, garrison the Spanish fort, and report the

whole proceedings to his government, that such a course might be taken as policy and justice should require?

Had the general done less than this, the whole nation would have raised an outcry, and might with great propriety have declared, that much too little had been effected—nay, that nothing effectual had been accomplished, though great expense and incalculable hardships had been incurred and suffered. The general had no time to lose; the sickly season was fast approaching—most of his army exhausted by fatigue and suffering, and every day becoming more anxious to return to their homes and families. The Indians were protected at Pensacola, where they were supplied with provisions, or had eluded all his search and diligence by inaccessible swamps and morasses. Spain, it is said, was unable to restrain the Indians from the commission of hostilities, agreeably to the treaty with the United States. In deference to the Spanish government this is presumed; and it is so stated in the intelligence. From the fact, however, of finding the Indians embodied at, and in the Spanish garrison, from whence they proceeded, furnished and equipped for war, by the Spaniards, no other conclusion could have been formed, but that these garrisons were not only unable to restrain the Indians, but that dreading their vengeance in case of denial, they were compelled to furnish the means of their massacres and plunder. In this respect the case is perfectly similar to the circumstances, which had before induced the United States to seize upon the occupation of Amelia Island. It seems that a set of pirates, renegadoes, and runaway negroes, had not only taken possession, but had also usurped all the authorities of the island, and were daily pirating the seas, and smuggling, in violation of the revenue laws of the United States. Under these circumstances, the United States took possession of the island; and it is not understood that the Spanish minister, resident at Washington city at the time, made any complaint to our government on the subject—sensible, no doubt, from the facts, that the conduct of the government in the affair had been just and proper. Spain was similarly situated in respect to the savages in Florida, being additionally bound by treaty to restrain them. But she was not more able to restrain the Indians of Florida from robbing and killing on our frontier, than to prevent the settlement of a set of pirates and smugglers in Amelia Island. The United States are not at war with Spain, nor does she desire to be so; but is ready, according to Jackson's treaty with the garrisons, to deliver them up whenever the Spanish nation will furnish a force sufficient to prevent the Indians from taking shelter in, and by compulsion, procuring warlike support from them.

There is one difference, and only one, between the case of the garrisons of Saint Marks and Pensacola, and Amelia Island. The first was taken possession of to prevent the effusion of blood of men, women and children; the latter, to prevent spoiliations on our revenue, or to save a little money to the treasury. Had Jackson returned home without destroying his enemies, whom he could not reach, and left St. Marks and Pensacola as he found them, his campaign had been less than nugatory. The Indians, exasperated, but not conquered, would have pursued in the rear of his retreating army, and with increased ferocity, crimsoned his steps with the blood of those he

was sent to defend. The course of general Jackson was, therefore, the only correct one on the occasion. He "acted on his own responsibility," to be sure, as he should do in all cases; but has he in doing so disobeyed his orders? Certainly not. The special order in relation to the Spanish posts, founded necessarily on the presumption that the Spaniards were neutral in the war, ceased to exist, the moment that these people took any part with the enemy. The discovery of this fact, therefore, left Jackson to the sole direction of the general order given him, in adopting all lawful means to put an effectual end to the Seminole war. Jackson acted on a state of things as they presented themselves to him on the theatre of action—facts which were entirely unknown to the president, and which could have formed no part of his contemplation at the time his order was issued. It was a new case; not within the scope of the order to respect the Spanish forts, but depending on the law of nations and usages of war; which general Jackson was bound to observe, or for any violations of which he stands responsible to his country.—That this was the state of things is made plain by example. Let us suppose that when general Jackson marched to St. Marks in search of his enemy, agreeably to his orders from his government, that he not only found the enemy under the walls of the garrison, but within it, and that the Spaniards commenced firing from the walls of the fort upon his army. Could it be possible that the president's order to the general was intended to embrace such a case as this, under the special provision to respect the forts, &c.? Was Jackson in this situation to halt his army, rest their arms, and receive the butchering fire of the garrison, directed by the Indians and Spaniards, combined in unknown proportion? Or retreat precipitately without the Spanish limits, leaving the Indians ready to issue from their asylum, equipped, provisioned and refreshed by their friends, to lay waste the frontier settlements, in the absence of all relief? I say, under such circumstances, should Jackson have thus acted; or should he not rather have advanced, dislodged his enemies, garrisoned the fort, and thereby effected for Spain, what she was unable to do for herself; and which left undone, exposed our frontier to savage butchery and depredation? Common sense—the sense of all nations will answer this question. This supposed case, is in all essential particulars, similar to the facts which occurred to general Jackson, on his approach to these forts. He was not fired upon, it is true; but here, the enemy found refuge from his pursuit, and were furnished with all the means necessary for the pillage and murder of our citizens. The Spaniards did not, as it appears, take an immediate share in the hostilities of the savages, but by the protection and supplies furnished them in their forts, the Indian war acquired all its force, and indicated a participation on the part of Spain either voluntary or constrained, the effect of which was equally injurious as a state of war with that power.

Having taken a cursory view of the circumstances in which general Jackson found himself placed in the prosecution of the war, it remains to be seen whether, by any fair mode of reasoning, his acts can be considered of a hostile character. For it is evident that neither the president, nor general Jackson, in subordination to him, could rightfully and constitutionally do any thing which would, *ipso facto*, place their country

in a state of war. By the constitution, the president is charged with the command of the military forces of the nation, and with the duty of protecting the country from external violence. With the approbation of congress, the nation was at open war with the Seminole Indians. The president, then, had full and ample power, constitutionally delegated, to use all means consistent with the laws of nations to put an effectual end to this war. This power was by the president delegated to general Jackson, who, unless he were limited by his superior, had the same latitude of discretion in the selection of the means to be employed, that was possessed by the president himself. The president was not restricted by congress in the means to be employed, and hence, in the conduct of the war, was left free to act as circumstances might require, governed by the usages and law of nations in regard to such cases. Under the circumstances above disclosed, was our government, or general Jackson, acting as its agent, authorized to take possession of St. Marks and Pensacola, as a precautionary measure of self defence, accompanied by an assurance of his design in doing so, and of their being given up so soon as Spain should be in a situation to cause her neutrality to be respected; or, whenever the president should so order it? It is difficult to suppose that any one would seriously dispute the propriety, nay, necessity, of this measure. General Jackson, in taking possession of these posts, in no instance infringed the rights of personal property—he possessed himself of these garrisons, thereby to enable him to keep down the hostilities of the Indians, which he could not otherwise effect, than by acting as the agent, not the enemy of the Spanish government, in doing what by treaty it was bound to perform; but not being able so to do, the United States were constrained, in self defence, to furnish the force necessary to effect the object. Independently of all treaties, the United States, or their agent, the commanding general, was authorized by the general law of nations to take this course. Vattel, B. 3, Ch. 7, S. 122, says, that “extreme necessity may even authorize the seizure of a place, and putting a garrison therein, for defending itself against the enemy, or preventing him in his designs of seizing this place, when the sovereign is not able to defend it.” In Sect 132, of the same chapter, the author observes, that “to secure prisoners and spoil in a place of safety, are acts of war, consequently not to be done in a neutral country, and whoever permitted it would break their neutrality, as favoring one of the parties. But I here speak of prisoners and goods, not yet perfectly in the enemy’s power, the capture of which is not, if I may be allowed the expression, fully completed. A flying party, for instance, cannot make use of a neighboring and neutral country as a staple for securing its prisoners and spoil.”

This law, published by Vattel as a rule of action for the government of nations in their mutual intercourse with each other, seems clearly intended by the author to embrace such a case as is furnished by the incidents of the Seminole war. In the Spanish garrisons the Indians found safety from the pursuit of Jackson; here they exposed to sale and received the price of their spoil from the frontier settlers; and here, we question little, they would have secured their prisoners, had they been permitted to take any by the sanguinary cast of their warfare. In the spirit of peace

and amity, however, which exists between Spain and the United States, it is not allowable to believe that the former power furnished the Indians voluntarily with this asylum for their persons, and security for the retention and enjoyment of their spoils. Supposing, then, that the conduct of the Spanish garrisons, pending the Seminole war, to have been the result of inability to perform the treaty with the United States, the case in relation to our government is little altered, and equally justifies the means employed by the commanding general in effecting its termination. In support of this position we refer also to Vattel’s treatise on the laws of nations. It is stated by this justly respected jurist, “it is certain that on my enemy’s being defeated and too much weakened to escape me, if my neighbor affords him a retreat, allows him time to recover, and watch a favorable opportunity of making a second attack on my territories; this conduct, so pernicious to my safety and interests, would be incompatible with neutrality. If, therefore, my enemy, on a defeat, retires into a neutral country, however charity may enjoin not to refuse a passage and safety, he is to cause his troops, as soon as possible, to continue their march, and not permit them to watch an opportunity for attacking me. Because, otherwise, he gives me a right to enter his territories in quest of my enemy: a misfortune that too often attends nations unable to command respect. Their territory soon becomes the scene of war; armies march into it, encamp, and fight, in a country open to all commerce.” In the Seminole war the savages had been defeated at Micasukee, and fled before the pursuit of our army—took refuge in the Spanish forts, where time was allowed them to repair their losses in battle, and cautiously to watch the first favorable opportunity of making a sudden descent upon our frontier, and steeping afresh their savage hands in the blood of its unprotected inhabitants. These being the facts, the course of our government, through its officer, general Jackson, in relation to the Spanish forts in Florida, cannot be otherwise than justified—justified by the law of nations, by the plainest reasoning of mankind, and the more cogent and unyielding dictates of self defence. But if general Jackson has been correct in taking possession of these forts, it is consequently insisted by some that the president has done wrong in ordering them to be restored to the Spanish authorities as he has done. In relation to the conduct of the president of the United States, it is hoped that the people have too much confidence in him as a statesman to doubt the correctness of his motives in the restoration of these forts. It would be sufficient to recollect that there is a negotiation pending, by which a pacific cession of the country is most probably contemplated. The nature of our government, and the habits of our people, are pacific and just. It is not our interest to make war against any nation. Were it otherwise, the executive alone, is constitutionally inhibited to do so, unless in cases of self defence. The measures of Jackson have been of this latter character. Having effected the object of his command, no war exists with the Indians, and as the retention of these posts might not only embroil us in war with other nations beside Spain, as well as embarrass the negotiation, it was certainly the most safe and dignified course on the part of the executive to direct their restoration.—This has been done, and

we doubt not, upon conditions best calculated to promote the solid interest of the nation. To have held them, after the object of the war with the Indians had been effected, and contrary to the remonstrances of the Spanish minister, might have changed the character of the whole transaction, and made the measure of taking possession by Jackson, an act of war *ab initio*, which it was the interest and the duty of the executive to avoid.—Congress is alone authorized to declare or commence a war. Independently, however, of this constitutional objection, the course taken by the president was the one dictated by propriety. As a just and moral people, we ought to respect the laws of nations, and not wrest from others their territories by violence. The character of honesty, patience, and forbearance, is as essential to nations as to individuals. A lawless, turbulent, and overbearing man, who is regardless of the rights of others, soon finds himself not only abandoned by the rest of mankind, but obliged ultimately to submit to their united influence, whatever may be his individual talents, power, and address. So it is in the society of nations; and so it is stated by that eminent jurist, Vattel, book 3, c. 6, and s. 97; who observes, "that this prudence of not always coming to an open rupture with those, who give such assistance to my enemy, that they may not join him with all their forces; this forbearance, I say, has gradually introduced the custom of not looking on such assistance as an act of hostility." And again, "but if prudence dissuades us from making use of all our right, it does not thereby destroy that right. A prudent nation chooses rather to dissemble than unnecessarily to increase the number of its enemies."—Such being the state of facts in respect to the capture of the Spanish forts, and such the rules of action applicable, it is asked, why all the confusion and contrariety of opinion which has succeeded, upon this affair? Some say that the president has been remiss, others that Jackson has disobeyed his orders! We have endeavored to show that both the president and general Jackson have acted correctly in their respective stations; and we hope this effort has not been without effect upon those who will deliberately reflect on the nature of the subject. There is, it is believed, no misunderstanding between the president and general Jackson, nor does there exist, according to our understanding, any disposition in either, likely to produce such a result. They are both great, honest, and patriotic men; and equally, in their respective stations, meriting, and in the possession of the public confidence and regard. It is presumed that the president will provide against future events, and after evacuating St. Marks and Pensacola, will take care that the troops of the United States withdrawn from them, shall be placed in such situations as to enable the nation to do itself justice with certainty and promptitude, in case Spain should hereafter be unable, or unwilling, to afford it.

The situation of Spanish affairs, particularly on the continent of South America, and her islands in the Atlantic, with the probable policy of England in that quarter, renders vigilance and attention on the part of our government highly important in the present crisis.

ARISTIDES.

The Constitution of the state of Illinois.

The people of the Illinois territory having the right of admission into the general government

as a member of the union, consistent with the constitution of the United States, the ordinance of congress of 1787, and the law of congress approved April 18th, 1818, entitled, "an act to enable the people of the Illinois territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and for other purposes," in order to establish justice, promote the welfare and secure the blessings of liberty to themselves and their posterity, do, by their representatives in convention, ordain and establish the following constitution or form of government, and do mutually agree with each other to form themselves into a free and independent state by the name of the state of ILLINOIS: and they do hereby ratify the boundaries assigned to such state by the act of congress aforesaid, which are as follows, to wit: Beginning at the mouth of the Wabash river; thence up the same, and with the line of Indiana to the northwest corner of said state; thence east with the line of the same state to the middle of lake Michigan; thence north along the middle of said lake to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi river; and thence down along the middle of that river to its confluence with the Ohio river; and thence up the latter river along its northwestern shore to the beginning.

ARTICLE I.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

Sec. 1. The powers of the government of the state of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative to one; those which are executive to another; and those which are judiciary to another.

Sec. 2. No person or collection of person, being one of those departments, shall exercise any power, properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE II.

Sec. 1. The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

Sec. 2. The first election of senators and representatives shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday in August, one thousand eight hundred and twenty, and forever after elections shall be held once in two years, on the first Monday of August, in each and every county, at such places therein as may be provided by law.

Sec. 3. No person shall be a representative who shall not have attained the age of twenty-one years, who shall not be a citizen of the United States and an inhabitant of this state; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United

States or of this state; and who, moreover, shall not have paid a state or county tax.

Sec. 4. The senators at their first session herein provided for, shall be divided by lot from their respective counties or districts, as near as can be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and those of the second class, at the expiration of the fourth year, so that one half thereof, as near as possible, may be biennially chosen forever thereafter.

Sec. 5. The number of senators and representatives shall, at the first session of the general assembly, holden after the returns herein provided for are made, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white inhabitants. The number of representatives shall not be less than twenty-seven, nor more than thirty-six; until the number of inhabitants within this state shall amount to one hundred thousand; and the number of senators shall never be less than one third nor more than one half of the number of representatives.

Sec. 6. No person shall be a senator who has not arrived at the age of twenty-five years, who shall not be a citizen of the United States, and who shall not have resided one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken; unless he shall have been absent on the public business of the United States or of this state, and shall not, moreover, have paid a state or county tax.

Sec. 7. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted;) each house shall judge of the qualifications and elections of its members, and sit upon its own adjournments. Two thirds of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

Sec. 8. Each house shall keep a journal of its proceedings and publish them: the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

Sec. 9. Any two members of either house, shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reasons of their dissent entered on the journals.

Sec. 10. Each house may determine the rule of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member, but not a second time for the same cause.

Sec. 11. When vacancies happen in either house; the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

Sec. 12. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to, and returning from, the same; and for any special debate in either house, they shall not be questioned in any other place.

Sec. 13. Each house may punish by imprison-

ment during its session, any person not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in their presence; provided such imprisonment shall not, at any one time, exceed twenty-four hours.

Sec. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

Sec. 15. Bills may originate in either house, but may be altered, amended, or rejected, by the other.

Sec. 16. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending, shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker of their respective houses.

Sec. 17. The style of the laws of this state shall be, "*Be it enacted by the people of the state of Illinois, represented in general assembly.*"

Sec. 18. The general assembly of this state shall not allow the following officers of government greater or smaller annual salaries than as follows, until the year one thousand eight hundred and twenty-four: The governor one thousand dollars; and the secretary of state six hundred dollars.

Sec. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under the state, which shall have been created, or the emoluments of which shall have been increased during such time.

Sec. 20. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

Sec. 21. An accurate statement of the receipts and expenditures of the public money, shall be attached to, and published with the laws, at the rising of each session of the general assembly.

Sec. 22. The house of representatives shall have the sole power of impeaching, but a majority of all the members present must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two thirds of all the senators present.

Sec. 23. The governor and all other civil officers under this state shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, profit, or trust under this state. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

Sec. 24. The first session of the general assembly shall commence on the first Monday of October next; and forever after, the general assembly shall meet on the first Monday in December next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

Sec. 25. No judge of any court of law or equity, secretary of state, attorney general, attorney for the state, register, clerk of any court of record, sheriff or collector, member of either house of congress, or person holding any lucrative office under the United States or this state, (provided that appointments in the militia, postmasters or justices of the peace, shall not be considered lucrative offices) shall have a seat in the general assembly: nor shall any person holding an office of honor or profit under the government of the United States, hold any office of honor or profit under the authority of this state.

Sec. 26. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the constitution of the United States and of this state, and also an oath of office.

Sec. 27. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the state six months next preceding the election, shall enjoy the right of an elector: but no person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.

Sec. 28. All votes shall be given viva voce until altered by the general assembly.

Sec. 29. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

Sec. 30. The general assembly shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

Sec. 31. In the year one thousand eight hundred and twenty, and every fifth year thereafter, an enumeration of all the white inhabitants of the state shall be made, in such manner as shall be directed by law.

Sec. 32. All bills for raising a revenue shall originate in the house of representatives, subject however to amendment or rejection as in other cases.

ARTICLE III.

Sec. 1. The executive power of this state shall be vested in a governor.

Sec. 2. The first election of governor shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday of August, in the year of our Lord one thousand eight hundred and twenty-two. And forever after, elections for governor shall be held once in four years, on the first Monday of August. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall respectively vote for members thereof. The returns for every election of governor shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

Sec. 3. The first governor shall hold his office until the first Monday in December, in the year of our Lord one thousand eight hundred and twenty-two, and until another governor shall be elected and qualified to office: and forever after, the governor shall hold his office for the term of four years, and until another governor shall be elected and qualified; but he shall not be eligible for more than four years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States thirty years; two years of which next preceding his election, he shall have resided within the limits of this state.

Sec. 4. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

Sec. 5. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

Sec. 6. The governor shall at stated times receive a salary for his services, which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 7. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. When any officer, the right of whose appointment is, by this constitution, vested in the general assembly, or in the governor and senate, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission which shall expire at the end of the next session of the general assembly.

Sec. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

Sec. 10. He shall be commander in chief of the army and navy of this state, and of the militia, except when they shall be called into the service of the United States.

Sec. 11. There shall be elected in each and every county in the said state, by those who are qualified to vote for members of the general assembly, and at the same times and places where the election for such members shall be held, one sheriff and one coroner, whose election shall be subject to such rules and regulations as shall be prescribed by law. The said sheriffs and coroners respectively, when elected, shall continue in office two years, be subject to removal and disqualification, and such other rules and regulations as may be, from time to time, prescribed by law.

Sec. 12. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper, provided it be not to a period beyond the next constitutional meeting of the same.

Sec. 13. A lieutenant governor shall be chosen at every election for governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant governor.

Sec. 14. He shall, by virtue of his office, be speaker of the senate, have a right when in com-

mittee of the whole to debate and vote on all subjects, and whenever the senate are equally divided, to give the casting vote.

Sec. 15. Whenever the office of governor shall be administered by the lieutenant governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant governor shall be impeached, removed from office, refuse to qualify, or resign or die, or be absent from the state, the speaker of the senate shall in like manner administer the government.

Sec. 16. The lieutenant governor, while he acts as speaker of the senate, shall receive for his services the same compensation, which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government, as governor, he shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

Sec. 17. If the lieutenant governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the state, during the recess of the general assembly, it shall be the duty of the secretary for the time being, to convene the senate for the purpose of choosing a speaker.

Sec. 18. In case of an impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the state, the lieutenant governor shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy.

Sec. 19. The governor for the time being, and the judges of the supreme court, or a major part of them, together with the governor, shall be, and are hereby, constituted a council to revise all bills about to be passed into laws by the general assembly; and for that purpose shall assemble themselves from time to time, when the general assembly shall be convened; for which, nevertheless, they shall not receive any salary or consideration under any pretence whatever; and all bills which have passed the senate and house of representatives shall, before they become laws, be presented to the said council for their revisal and consideration, and if, upon such revisal and consideration, it should appear improper to the said council, or a majority of them, that the bill should become a law of this state, they shall return the same, together with their objections thereto in writing, to the senate or house of representatives, (in whichever the name shall have originated,) who shall enter the objections set down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same by a majority of the whole number of members elected, it shall, together with the said objections, be sent to the other branch of the general assembly, where it shall also be reconsidered; and if approved by a majority of all the members elected, it shall become a law. If any bill shall not be returned within ten days after it shall have been presented, the same shall be a law; unless the general assembly shall, by their adjournment, render a return of the

said bill in ten days impracticable; in which case the said bill shall be returned on the first day of the meeting of the general assembly after the expiration of the said ten days or be a law.

Sec. 20. The governor shall nominate, and by and with the advice and consent of the senate, appoint a secretary of state, who shall keep a fair register of the official acts of the governor, and when required shall lay the same and all papers, minutes, and vouchers, relative thereto before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law.

Sec. 21. The state treasurer and public printer or printers for the state shall be appointed biennially by the joint vote of both branches of the general assembly; provided that during the recess of the same, the governor shall have power to fill such vacancies as may happen in either of said offices.

Sec. 22. The governor shall nominate, and by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for: provided, however, that inspectors, collectors and their deputies, surveyors of the highways, constables, jailors, and such inferior officers whose jurisdiction may be confined within the limits of the county, shall be appointed in such manner as the general assembly shall prescribe.

ARTICLE IV.

Sec. 1. The judicial power of this state shall be vested in one supreme court, and such inferior courts as the general assembly shall, from time to time, ordain and establish.

Sec. 2. The supreme court shall be holden at the seat of government, and shall have an appellate jurisdiction only, except in cases relating to the revenue, in cases of mandamus, and in such cases of impeachment as may be required to be tried before it.

Sec. 3. The supreme court shall consist in a chief justice and three associates, any two of whom shall form a quorum. The number of justices may however be increased by the general assembly after the year one thousand eight hundred and twenty-four.

Sec. 4. The justices of the supreme court and the judges of the inferior courts shall be appointed by joint ballot of both branches of the general assembly, and commissioned by the governor, and shall hold their offices during good behavior until the end of the first session of the general assembly, which shall be begun and held after the first day of January, in the year of our Lord one thousand eight hundred and twenty-four, at which time their commissions shall expire; and until the expiration of which time, the said justices respectively shall hold circuit courts in the several counties, in such manner and at such times, and shall have and exercise such jurisdiction as the general assembly shall by law prescribe. But ever after the aforesaid period, the justices of the supreme court shall be commissioned during good behavior, and the justices thereof shall not hold circuit courts unless required by law.

Sec. 5. The judges of the inferior courts shall hold their offices during good behavior, but for any reasonable cause which shall not be sufficient ground for impeachment, both the judges of the supreme and inferior courts shall be removed

from office on the address of two thirds of each branch of the general assembly: provided always, that no member of either house of the general assembly, nor any person connected with a member by consanguinity or affinity shall be appointed to fill the vacancy occasioned by such removal. The said justices of the supreme court, during their temporary appointments, shall receive an annual salary of one thousand dollars, payable quarterly yearly out of the public treasury. The justices of the inferior courts, and the justices of the supreme court who may be appointed after the end of the first session of the general assembly which shall be begun and held after the first day of January, in the year of our Lord one thousand eight hundred and twenty-four, shall have adequate and competent salaries, which shall not be diminished during their continuance in office.

Sec. 6. The supreme court or a majority of the justices thereof, the circuit courts or the justices thereof, shall respectively appoint their own clerks.

Sec. 7. All process, writs and other proceedings, shall run in the name of "The people of the state of Illinois." All prosecutions shall be carried on "in the name and by the authority of the people of the state of Illinois," and conclude, "against the peace and dignity of the same."

Sec. 8. A competent number of justices of the peace shall be appointed in each county in such manner as the general assembly may direct, whose time of service, power and duties, shall be regulated and defined by law. And justices of the peace, when so appointed, shall be commissioned by the governor.

ARTICLE V.

Sec. 1. The militia of the state of Illinois shall consist of all free male able bodied persons, negroes, mulattoes and Indians excepted, resident in the state, between the ages of eighteen and forty-five, except such persons as now are or hereafter may be, exempted by the laws of the United States or of this state, and shall be armed, equipped and trained, as the general assembly may provide by law.

Sec. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace, provided such person or persons shall pay an equivalent for such exemption.

Sec. 3. Company, battalion, and regimental officers, staff officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

Sec. 4. Brigadier and major-generals shall be elected by the officers of their brigades and divisions respectively.

Sec. 5. All militia officers shall be commissioned by the governor, and may hold their commissions during good behavior, or until they arrive at the age of sixty years.

Sec. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

ARTICLE VI.

Sec. 1. Neither slavery nor involuntary servitude shall hereafter be introduced into this state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person arrived at the age of twenty-one years, nor female person arrived at the age of

eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration received or to be received for their service. Nor shall any indenture of any negro, or mulatto, hereafter made and executed out of this state, or if made in this state, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

Sec. 2. No person bound to labor in any other state, shall be hired to labor in this state, except within the tract reserved for the salt works near Shawanee town; nor even at that place for a longer period than one year at any one time, nor shall it be allowed there after the year one thousand eight hundred and twenty-five: any violation of this article shall effect the emancipation of such person from any obligation to service.

Sec. 3. Each and every person who has been bound to service by contract or indenture, in virtue of the laws of the Illinois territory heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws, shall serve out the time appointed by said laws: provided, however, that the children hereafter born of such persons, negroes or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.

ARTICLE VII.

Sec. 1. Whenever two-thirds of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors at the next election of members to the general assembly to vote for or against a convention; and if it shall appear that a majority of all the citizens of the state voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly; to be chosen in the same manner, at the same place, and by the same electors that choose the general assembly, and which convention shall meet within three months after the said election, for the purpose of revising, altering, or amending this constitution.

ARTICLE VIII.

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, WE DECLARE,

Sec. 1. That all men are born equally free and independent, and have certain inherent and inalienable rights; among which are those of enjoying and defending life and liberty, and of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Sec. 2. That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness.

Sec. 3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect or support any place of worship, or to maintain any mi-

nistry against his consent: that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

Sec. 4. That no religious test shall ever be required as a qualification to any office or public trust under this state.

Sec. 5. That elections shall be free and equal.

Sec. 6. That the right of the trial by jury shall remain inviolate.

Sec. 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. That no freeman shall be imprisoned or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property, but by the judgment of his peers or the law of the land: and all lands which have been granted as a common to the inhabitants of any town, hamlet, village or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village or corporation: and the said common shall not be leased, sold or divided under any pretence whatever: provided, however, that nothing in this section shall be so construed as to affect the commons of Cahokia or Prairie Dupont: provided also, that the general assembly shall have power and authority to grant the same privileges to the inhabitants of the said villages of Cahokia and Prairie Dupont as are hereby granted to the inhabitants of other towns, hamlets, and villages.

Sec. 9. That in all criminal prosecutions, the accused hath a right to be heard by himself and council; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor. And in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage: and that he shall not be compelled to give evidence against himself.

Sec. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia, when in actual service, in time of war or public danger, by leave of the courts, for oppression or misdemeanor in office.

Sec. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb: nor shall any man's property be taken, or applied to public use without the consent of his representatives in the general assembly, nor without just compensation being made to him.

Sec. 12. Every person within this state ought to find a certain remedy in the laws, for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely and without being obliged to purchase it; completely and without denial; promptly and without delay; conformably to the laws.

Sec. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great, and the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

Sec. 14. All penalties shall be proportioned to the nature of the offence; the true design of all punishments being to reform, not to exterminate, mankind.

Sec. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

Sec. 16. No ex post facto law, nor any law impairing the validity of contracts; shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 17. That no person shall be liable to be transported out of this state for any offence committed within the same.

Sec. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

Sec. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

Sec. 20. That the mode of levying a tax shall be by valuation, so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession.

Sec. 21. That there shall be no other banks or monied institutions in this state but those already provided by law, except a state bank and its branches, which may be established and regulated by the general assembly of the state as they may think proper.

Sec. 22. The printing presses shall be free to every person who undertakes to examine the proceedings of the general assembly or of any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print, on any subject, being responsible for the abuse of that liberty.

Sec. 23. In prosecutions for the publication of papers investigating the official conduct of officers or of men acting in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right of determining both the law and the fact, under the direction of the court as in other cases.

SCHEDULE.

Sec. 1. That no inconvenience may arise from the change of a territorial to a permanent state government: it is declared by the convention that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies corporate, shall continue as if no change had taken place in this government, in virtue of the laws now in force.

Sec. 2. All fines, penalties, and forfeitures, due and owing to the territory of Illinois, shall enure

to the use of the state. All bonds executed to the governor, or to any other officer in his official capacity in the territory, shall pass over to the governor or to the officers of the state, by him or by them to be respectively assigned over to the use of those concerned, as the case may be.

Sec. 3. No sheriff or collector of public moneys shall be eligible to any office in this state, until they have paid over according to law, all monies which they may have collected by virtue of their respective offices.

Sec. 4. There shall be elected in each county three county commissioners for the purpose of transacting all county business, whose time of service, power and duties, shall be regulated and defined by law.

Sec. 5. The governor, secretary and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

Sec. 6. The governor of this state shall make use of his private seal, until a state seal shall be provided.

Sec. 7. The oaths of office herein directed to be taken may be administered by any justice of the peace until the general assembly shall otherwise direct.

Sec. 8. Until the first census shall be taken, as directed by this constitution, the county of Madison shall be entitled to one senator and three representatives; the county of St. Clair, to one senator and three representatives; the county of Bond, to one senator and one representative; the county of Washington, to one senator and one representative; the county of Monroe, to one senator and one representative; the county of Randolph, to one senator and two representatives; the county of Jackson, to one senator and one representative; the counties of Johnson and Franklin to form one senatorial district, and to be entitled to one senator, and each county to one representative; the county of Union, to one senator and two representatives; the county of Pope, to one senator and two representatives; the county of Gallatin, to one senator and three representatives; the county of White, to one senator and three representatives; the county of Edwards, to one senator and two representatives; and the county of Crawford to one senator and two representatives.

Sec. 9. The president of the convention shall issue writs of election, directed to the several sheriffs of the several counties, or in case of the absence or disability of any sheriff, then to the deputy sheriff, and in case of the absence or disability of the deputy sheriff, then such writ to be directed to the coroner requiring them to cause an election to be held for governor, lieutenant-governor, representative to the present congress of the United States, and members to the general assembly, and sheriffs and coroners in the respective counties; such election to commence on the third Thursday of September next, and to continue for that and the two succeeding days; and which election shall be conducted in the manner prescribed by the existing election laws of the Illinois territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until

their successor or successors are qualified, and no longer.

Sec. 10. An auditor of public accounts, an attorney general, and such other officers for the state as may be necessary, may be appointed by the general assembly; whose duties may be regulated by law.

Sec. 11. It shall be the duty of the general assembly to enact such laws as may be necessary and proper to prevent the practice of duelling.

Sec. 12. All white male inhabitants above the age of twenty-one years, who shall be actual residents of this state at the signing of this constitution, shall have a right to a vote at the election to be held on the third Thursday and the two following days of September next.

Sec. 13. The seat of government for the state shall be at Kaskaskia until the general assembly shall otherwise provide. The general assembly at their first session holden under the authority of this constitution, shall petition the congress of the United States to grant to this state a quantity of land, to consist of not more than four, nor less than one section, or to give to this state the right of pre-emption in the purchase of the said quantity of land. The said land to be situate on the Kaskaskia river, and as near as may be, east of the third principal meridian on said river. Should the prayer of such petition be granted, the general assembly at their next session thereafter, shall provide for the appointment of five commissioners to make the selection of said land so granted; and shall further provide for laying out a town upon the land so selected; which town, so laid out, shall be the seat of government of this state for the term of twenty years. Should, however, the prayer of said petition not be granted, the general assembly shall have power to make such provision for a permanent seat of government as may be necessary, and shall fix the same where they may think best.

Sec. 14. Any person of thirty years of age who is a citizen of the United States, and has resided within the limits of this state two years next preceding his election, shall be eligible to the office of lieutenant-governor—any thing in the thirteenth section of the third article of this constitution contained to the contrary notwithstanding.

DONE in convention at Kaskaskia, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and eighteen, and of the independence of the United States of America, the forty-third

IN TESTIMONY WHEREOF, we have hereunto subscribed our names.

JESSE B. THOMAS, *President of the Convention, and representative from the county of St. Clair.*

St. Clair County.

JOHN MESSINGER,

JAMES LEMEN, Jr.

Randolph County.

GEORGE FISHER,

ELIAS KENT KANE.

Madison County.

B. STEPHENSON,

JOSEPH BURROUGH,

ABRAHAM PRICKETT.

Gallatin County.

MICHAEL JONES,

LEONARD WHITE,

ADOLPHUS F. HUBBARD.

Johnson County.
HEZEKIAH WEST,
WILLIAM McFATRIDGE.

Edwards County.
SETH GARD,
LEVI COMPTON.

White County.
WILLIS HARGRAVE,
WILLIAM McHENRY.

Monroe County.
CALDWELL CARNS,
ENOCH MOORE.

Pope County.
SAMUEL OMELVANY,
HAMLET FERGUSON.

Jackson County.
CONRAD WILL,
JAMES HALL, Jr.

Crawford County.
JOSEPH KITCHELL,
ED. N. CULLOM,

Bond County.
THOS. KIRKPATRICK,
SAMUEL G. MORSE.

Union County.
WILLIAM ECHOLS,
JOHN WHITEAKER.

Washington County.
ANDREW BANKSON.

Franklin County.
ISHAM HARRISON,
THOMAS ROBERTS.

ATTEST,

WILLIAM C. GREENUP,

Secretary to the Convention.

AN ORDINANCE.

Whereas, the congress of the United States in the act entitled "An act to enable the people of the Illinois territory to form a constitution and state government, and for the admission of such state into the union on an equal footing with the original states, passed the 18th of April, 1818,"* have offered to this convention for their free acceptance or rejection, the following propositions, which if accepted by the convention are to be obligatory upon the United States, viz:

"1st. That section numbered sixteen in every township, and when such section has been sold, or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the state for the use of the inhabitants of such township for the use of schools.

"2d. That all salt springs within such state and the lands reserved for the use of the same shall be granted to the said state for the use of the said state, and the same to be used under such terms and conditions and regulations as the legislature of said state shall direct; provided the legislature shall never sell nor lease the same for a longer period than ten years at any one time.

"3d. That five per cent. of the nett proceeds of the lands lying within such state, and which shall be sold by congress, from and after the first day of January, one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: Two-fifths to be disbursed under the direction of congress, in making roads leading to the state; the residue to be appropriated by the legislature of the state for the encouragement of

learning, of which one-sixth part shall be exclusively bestowed on a college or university.

"4th. That thirty-six sections or one entire township, which shall be designated by the president of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said state, to be appropriated solely to the use of such seminary by the said legislature."

And whereas, the four foregoing propositions are offered on the condition that this convention shall provide by ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States from and after the first day of January, 1819, shall remain exempt from any tax laid by order or under the authority of the state, whether for state, county or township, or any other purpose whatever, for the term of five years, from and after the day of sale. And further, that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from all taxes for the term of three years, from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than lands belonging to persons residing therein.

Therefore, this convention, on behalf of, and by the authority of, the people of the state, do accept of the foregoing propositions; and do further ordain and declare, that every and each tract of land sold by the United States, from and after the first day of January, 1819, shall remain exempt from any tax laid by order or under any authority of the state, whether for state, county or township, or any purpose whatever, for the term of five years from and after the day of sale. And that the bounty lands granted or hereafter to be granted for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt as aforesaid, from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said state, shall never be taxed higher than lands belonging to persons residing therein. And this convention do further ordain and declare, that the foregoing ordinance shall not be revoked without the consent of the United States.

Done in convention at Kaskaskia, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and eighteen, and of the independence of the United States of America the forty-third.

JESSE B. THOMAS,
President of the Convention;

ATTEST,
WM. C. GREENUP,
Secretary to the Convention.

EDITOR'S CABINET.

General Andrew Jackson.—Although our paper is not of a very miscellaneous complexion this week, it contains some valuable articles. Among these is the Constitution of the new State of Illinois, and a Defence of General Jackson's conduct

* See the acts of the 1st session of the 15th congress, page 48.

in relation to his occupation of the Spanish posts in the Floridas, supposed to have been written by himself, and unquestionably drawn up with his privacy. This defence originally appeared in three numbers: we have united the whole in one publication, so that the reader may consider the argument in an unbroken view.

Without being the professed partisan of this officer, we are decidedly of opinion, that his conduct, in the case in question, was strictly justifiable. His vindication rests upon the nature of his orders from Government and the character of the circumstances which came to his knowledge on the theatre of action, and at the time unknown to the Executive. Had the orders covered all the possible points of the campaign; no doubt of the propriety of General Jackson's conduct would have ever been expressed. But from the facts already before the public, it is evident that he found himself in unforeseen circumstances, concerning which his instructions were silent, and in which delay would have been fatal. In the case of Gen. JACKSON, the administration has decided with great equity, and, as far as we know, upon the soundest principles.

It is quite a remarkable concurrence, but we have not the least doubt that it struck the mind of the President forcibly, that the defence of General JACKSON, in this instance, rests precisely upon the same grounds, in point of principle, that Colonel MONROE's does with respect to the negotiation of the treaty by himself and Mr. PINKNEY, with the British government, in 1806, and which was rejected by President JEFFERSON. "We thought it consistent with our duty (says Colonel MONROE, in his letter from Richmond) to look solely to the object of our instructions; and to exert our utmost efforts to accomplish it; and we acted in conformity to that sentiment."—*Waite's American State Papers*, page 420, vol. 6.

Census.—The editor of the "Aurora," and, copying from him, the editors of the "National Intelligencer," have committed a gross mistake in relation to the third and fourth enumerations of the inhabitants of the United States, as provided for by the constitution.

They have asserted, 1. That a law, providing for a fourth census, ought to be enacted at the present session of Congress: And, 2. That the third census was not provided for in time, and that it was left until the last moment.

A simple statement of a few facts will show how very ignorant, or how very prone to find fault, Mr. DUANE is; and how very inattentive or unreflecting MESSRS. GALES and SEATON have been. If the conductors of our public journals would fol-

low copy less, and cultivate their understandings more, there would be fewer absurdities propagated among the people.

1. As to the necessity of a provision by law, for a fourth census, at the present session of Congress.

The Constitution of the United States ordains, that "the (first) actual enumeration shall be made within three years after the first meeting of Congress, AND WITHIN EVERY SUBSEQUENT TERM OF TEN YEARS, in such manner as they shall by law direct."—(*Laws U. S. revised edition*, page 61, vol. 1.)

Congress met, for the first time under the existing Constitution, on the 4th of March 1789, and on the 1st of March 1790, there was approved "An act providing for an enumeration of the inhabitants of the United States."—(*Laws U. States*, page 79, vol. 2.) The second census took place, "within a subsequent term of ten years," under the provisions of the act of the 28th of February, 1800; and, according to the words of the Constitution, it could not have taken place sooner.—(*See Laws U. S. page 310*, vol. 3.) And the third enumeration of the people was provided for by act of 26th of March, 1810; which was also as soon as the Constitution permitted.—(*See Laws U. States*, page 256, vol. 4.)

The third census was the one last taken. It was authorized by law in 1810. Ten years must arrive from that year before the next, or fourth, enumeration can be made; and that would bring us to 1820. If, therefore, the law passes in December of 1819, or in March 1820, it will be time enough. Congress may pass an act for the purpose during the present session of Congress, but they might have done it five years ago with the same propriety; for it could not be legally acted under immediately in either case.

2d. As to the third census having been provided for in time, and as to its having been left until the last moment.

The reader will please here to distinguish between an act providing for a census, and an act fixing the ratio for choosing representatives according to that census.

The third census, against which the Aurora's and Intelligencer's objections lie, was provided for, as we have seen, on the 28th of February, 1810; which was as soon as the Constitution required, or strictly speaking, would allow. This might suffice to show that it was provided for in time. But we will show, moreover, that the ratio for choosing representatives was fixed in time; and that neither the one nor the other was unnecessarily procrastinated or left until a late mo-

ment. The different ratios were fixed by the acts whose dates follow:

1st ratio—1 member for every 33,000—14th April, 1792. (*Laws U. S. page 272, vol. 2.*)

2d ratio—1 member for every 33,000—14th January, 1802. (*Laws U. S. page 445, vol. 3.*)

3d ratio—1 member for every 35,000—21st December, 1811. (*Laws U. S. page 365, vol. 4.*)

It is thus made manifest that both the *Aurora* and the *Intelligencer* have *wholly erred*. The first ratio having been fixed in 1792, the second, *ten years subsequently*, regularly took place in 1802—and the third would, of course, have been soon enough, according to the indispensable term of ten years, had it been fixed in 1812: but it was actually fixed in December, 1811; a month or two sooner than the ten years required. And although even fixed in 1811, the new ratio was not, by the act of 1811 itself, to take effect until "from and after the 3d day of March, 1813"—so that there was more than an entire year left for the necessary new districting of the states and the new elections by the people. The returns were made, and the tables accurately printed, quite in time for the legislature to act upon them.

Fire at Boston.—On the 3d instant the Exchange Coffee-House at Boston was entirely consumed. It is supposed to have caught fire from an accidental cause. The loss is estimated at about five hundred thousand dollars. This great pile of buildings was begun in 1806, and was finished in 1809. The founder was Andrew Dexter, junior; Jonathan Whitney, architect, and Samuel B. Jarvis, superintending carpenter. It was seven stories high, exclusive of spacious cellars under the whole, contained two hundred apartments, and covered nearly an acre of ground. We have several accounts of the conflagration, which differ in some particulars; so that we have preferred waiting for a more exact description of this terrible accident, which we presume will be soon given to the public to inserting the narratives of different persons, who all appear to have written under highly excited sensations.

Official Notices, &c. &c.—The second and last session of the Fifteenth Congress will commence on Monday next, the 16th instant. Mr. GAILLARD, President of the Senate pro tempore, has arrived in Washington; and, whilst this sheet is passing under the press, Mr. CLAY, the Speaker of the House of Representatives, will probably have returned from his visit to Salem and Boston. A number of other Senators and Representatives are already in the city. The session *must* close on the 3d of March next; and it will, consequently, endure for about three months and an half. The President's Message will probably appear on Tuesday or Wednesday next. It will be a *bon bouche*

for the mere quidnuncs—or "dandy" politicians—who are starving for news. The Message will no doubt be an able one.

Mr. EUSTIS, formerly secretary of war, and late Minister of the United States at the court of the Netherlands, is at present on a visit at the seat of government.

The President has appointed SMITH THOMPSON, of New York, Secretary of the Navy, to supply the vacancy occasioned by the resignation of Mr. CROWINSHIELD.

Commodore LEWIS has arrived at Marblehead from Hayti.

The President has recognised the marquis de FOUGERES as consul of his most Christian majesty the king of France for the port of Charleston, S. C.

Generals SWIFT and BERNARD, and Capt. POWSIX, aid to the latter, lately visited Old Point Comfort, in the Chesapeake Bay, where the U. S. fortifications are constructing.

Mr. POLITIKA, the Russian minister to the U. S. is in attendance upon the congress of Aix-la-Chapelle, whence he will repair to the U. S.

The U. S. schooner NONSUCH, lieut. commandant CLAXTON, has arrived at Norfolk, Virginia.

The U. S. frigate MACEDONIAN, captain DOWNES, which lately put into Norfolk in distress, has been thoroughly repaired, and sailed thence for the Pacific Ocean.

JOSEPH G. SWIFT, colonel and brigadier general by brevet, of the corps of engineers of the United States, has been appointed surveyor of the port of New York, late JOHN HAFF, removed. The office is worth about 3,000 dollars per annum.

JOHN McLEAN has been elected to Congress, to represent the new state of Illinois.

NINIAN EDWARDS and JESSE B. THOMAS have been chosen Senators in Congress for the same state.

JOSEPH PHILLIPS has been chosen chief justice, and THOMAS C. BROWN, W. P. FOSTER, and JOHN REYNOLDS, associate justices, of the state of Illinois. DANIEL P. COOK has been elected attorney general, E. C. BERRY auditor, and JOHN THOMAS treasurer, of the same state.

SHADRACK BOND is the governor elect of Illinois, and the legislature has convened under the new constitution. It does not appear that they consider themselves, however, although organized, as having been absolutely admitted into the Union, an act of Congress, at the approaching session, having been thought necessary to complete the admission. The general assembly of Illinois has thus construed its own situation; and we think upon sound principles; for being admissible on conditions, it is for Congress to recognise the performance of the conditions before a complete incorporation.